

Draft

R E G U L A T I O N S

**GOVERNING
CLASS B & CLASS C
ROAD FUNDS**

**UTAH DEPARTMENT OF TRANSPORTATION
OFFICE OF PROGRAM DEVELOPMENT
UDOT/DPS COMPLEX
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Utah Department of Transportation

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** Section VII is not included in this document as it increases length of document by 24 pages. It can be downloaded as a separate document from the UDOT website at "www.udot.utah.gov", then browse as follows:*

Home > Doing Business > Local Government Assistance > Class B & C Road Funds Assistance > Class B & C Road Funds

A hard copy of one or both documents can be obtained by request from the Systems Planning and Programming Division, UDOT

Forward

At a meeting of the Joint Highway Committee (JHC) on April 23, 2008, representatives from the Systems Planning and Programming group of the Utah Department of Transportation (UDOT) presented a proposal to revise the “Regulations Governing Class B and Class C Road Funds” due to changes in process, technology and interpretation of eligibility that had occurred since this publication was last modified in 2001. The JHC appointed a three-member subcommittee to participate with three UDOT representatives in the revision process and asked that the proposed changes be presented at the next meeting of the JHC. The proposed changes were presented as requested at the next JHC meeting held on September 19, 2008. After further changes were proposed and agreed upon by UDOT and Committee members during the meeting, the JHC passed a resolution to accept the regulations contained herein.

These updated regulations will be incorporated into Utah Administrative Rules as R-926-3 in the near future.

Section I

HISTORY OF CLASS B & C ROAD PROGRAM

The Class B & C road system with a funding program was established by the Utah Legislature in 1937 as a means of providing assistance to counties and incorporated municipalities for the improvement of roads and streets throughout the State.

The funds differ from ordinary local revenues inasmuch as they are subject to administrative direction by the State in accordance with legislative provisions. The Utah Department of Transportation is the administrative authority on behalf of the State (Utah Code 72-2-109). The procedures and regulations are designed to function by mutual accord among all agencies concerned. They have the approval and the endorsement of both the Utah Association of Counties and the Utah League of Cities and Towns through the Joint Highway Committee and are looked upon as measures necessary in the perpetuation of the annual allocations that are so vital to each local authority in meeting ever increasing traffic demands. Commendable accomplishments have been made in the use of Class B & C funds due to the continued cooperation extended by the individual agencies.

In accordance with changes passed by the 1982 Legislature, the Collector Road Program was eliminated on June 30, 1982. The funds previously allocated to that program were added to the B & C program funds. At the request of the counties and municipalities the formula for the distribution of the B & C funds among the counties and municipalities was also modified by the 1982 State Legislature.

In the 1997 legislature, the B & C distribution formula was changed to apportion money 50% to population and 50% to weighted road miles. The road miles were weighted at a 5 for a paved road mile, a 2 for a graveled road mile and a 1 for any other type of road mile.

In the 1998 legislature, the Transportation Code was moved from Section 27 of the Utah Code to Section 72.

Much of the correspondence and all field duties associated with the administration of Class B and Class C road funds are now handled by the Utah Department of Transportation, Systems Planning and Programming.

As the Administrative Agent, the Utah Department of Transportation stresses the importance of Class B & C road funds and is willing at all times to cooperate to the fullest extent possible with each agency. Agencies should be aware that these monies are intended for, and are limited to, construction and maintenance of eligible county roads and municipal streets. They are never to be used as a supplement to other fund accounts.

Section II

DEFINITIONS

1. Alleys: Those publicly owned passageways, regardless of width, that were established more as a necessary convenience for adjoining property owners than for use as public highways, roads or streets regularly traveled by motor vehicles. They are typically used for garbage collection, access to residential garages and rear entrances to commercial establishments.
2. Bid Limit: As defined in Utah Code 72-6-108 and 72-6-109 (see Section VII, Appendix)
3. Class B & C Roads: All public highways, roads or streets that are designated as Class B by the county or Class C by the municipality having jurisdictional authority to do so. Counties and municipalities cannot designate Class B or Class C roads outside of their geographical boundaries, with exception that Class B roads can exist inside of municipal boundaries.

(Utah Codes 17-50-305, 72-3-103 and 72-3-104)
4. Class B & C Road Fund: With the exception of the diversions provided for in Utah Code 72-2-103 and the increased registration fees as provided in Utah Code 41-1a-1201(6), 30% of the state highway user taxes and fees are allocated to the class B and class C roads account (See Utah Code 72-2-107). This is a restricted account to be used for the construction and maintenance of county roads and municipal streets that have been documented as eligible for funding according to regulations governing this fund. Only eligible mileage is used to determine funding credit that is the mileage basis for the amount of funds each local authority will receive.
5. Construction: The definition is as listed in the Utah Code 72-6-109(1)(c)(i). Construction means the work that would apply to:
 - (a) any new roadbed either by addition to existing systems or relocation;
 - (b) resurfacing of existing roadways with more than two inches of bituminous pavement;or
 - (c) new structures or replacement of existing structures, except the replacement of drainage culverts.

This work includes the supervising, inspecting, actual building and all expenses incidental to the construction of a structure or road; including but not limited to, right-of-way, engineering, earthwork, structures, graveling, oiling, pedestrian facilities, paving, drainage, fence replacements and relocation of ditches.

Construction does not include maintenance, emergency repairs, or the installation of traffic control devices as described in Utah Code 41-6a-302.
6. Improvement Project: Construction and maintenance as defined in Utah Code 72-6-109, Subsection (1) except for that maintenance excluded under Subsection (2), stated in code as:
 - (a) the repair of less than the entire surface by crack sealing or patching; and
 - (b) road repairs incidental to the installation, replacement, or repair of water mains, sewers, drainage pipes, culverts, or curbs and gutters.

7. Local Authority: A county or municipality
8. Maintenance: The definition is as listed in the Utah Code 72-6-109(1)(e). "Maintenance" means the keeping of a road facility in a safe and usable condition to which it was constructed or improved, and includes:
- (a) the reworking of an existing surface by the application of up to and including two inches of bituminous pavement;
 - (b) the installation or replacement of guardrails, seal coats, and culverts;
 - (c) the grading or widening of an existing unpaved road or flattening of shoulders or side slopes to meet current width and safety standards; and
 - (d) horizontal or vertical alignment changes necessary to bring an existing road in compliance with current safety standards.

The level of maintenance required for funding eligibility of Class B and Class C roads and streets is specified in Section VI.2.

9. Municipality: An incorporated city or town in Utah
10. Project: As defined in Utah Code 72-6-109(1)(f). "Project" means the performance of a clearly identifiable group of associated road construction activities or the same type of maintenance process, where the construction or maintenance is performed on any one Class B or C road, within a half-mile proximity and occurs within the same calendar year.
11. Surface-Type Classifications: Based upon the intent of the language contained in Utah Code 72-2-108, surface type categories that are used to determine funding of eligible Class B and C roads are further clarified as follows:

A. **Paved** road mileage shall include:

- 1. concrete
- 2. bituminous surface of any thickness
- 3. graveled roads with a chip seal surface
- 4. recycled asphalt

B. **Graveled** road mileage is comprised of only those roads that combine an improved surface, an aggregate wearing surface and transverse drainage to prevent the road from becoming impassable when traveled by standard passenger vehicles in wet conditions. A graveled road must meet the following requirements for surface and drainage adequacy:

- 1. The surface grade is improved beyond that of a standard graded road by using a natural or artificial transverse drainage system to prevent serious impairment of the road by surface water. This may include but not be limited to:
 - (a) installation of pipe culverts
 - (b) grading the surface to form a transverse crown or slope to drain water away from the traveled portion of the roadway
 - (c) use of longitudinal drainage that is below the level of the traveled portion of the roadway

2. The wearing surface consists of gravel, broken stone, slag, iron ore, shale or other material that is courser than sand.

C. **Other** roads are generally known as other eligible “dirt” roads. This mileage shall consist of all other regularly graded roads which meet eligibility requirements as outlined in Section VI, but do not meet the higher surface and transverse drainage requirements for graveled roads.

12. Transportation Fund: The fund defined in Utah Code 72-2-201 established for exclusive use for highways.
13. UDOT: The Utah Department of Transportation

Section III

RULES AND PROCEDURES

The program to use Class B & C Funds shall be conducted according to all State Statutes that apply. The following information is provided for clarification and implementation of the statutes.

1. RULES

- A. Class B & C funds may be used only for construction, maintenance and highway related purposes on eligible B & C roads (see Section II for definitions and Section IV for uses). Except under emergency conditions, all equipment purchased with B & C funds must be used on public roads only.
- B. All construction plans, specifications and estimates required by Section 72-6-108(1) of the Utah Code and all construction work shall be prepared and performed under the direct supervision of a registered professional engineer who shall certify to the county governing board or the governing officials of the municipality that all road construction projects conform to design and construction standards as currently adopted by the American Association of State Highway and Transportation Officials.
- C. Cost of Improvement projects performed by force account shall be accounted for following Utah Code 72-6-109(3)(b).
- D. All projects whose costs exceed the bid limit as defined in Utah code 72-6-109(2), shall meet the bidding requirements as set forth in Utah Code 72-6-109.
- E. Approval shall be required from the UDOT Region Director or District Engineer to use B & C funds on State Highways, for any permitted purpose.
- F. Any local authority desiring to allow its Class B & C road funds to accumulate until such time as sufficient funds are available for more extensive road projects, can invest said monies in accordance with the Utah State Money Management Act (Utah Code 51-7). Any and all interest thus earned is to be credited to the local authority Class B & C road fund account.
- G. The acceptance by a local authority of monies from the B & C road fund constitutes an agreement to use the funds according to all laws and regulations that apply. The failure of any local authority to comply with the laws, regulations and procedures regarding Class B & C road funds will constitute a breach of contract and the UDOT shall have the authority, at its discretion, to withhold subsequent allocations in each instance until compliance with all laws and regulations has been accomplished.
- H. The local authority shall meet audit requirements set forth in the Utah Code 51-2. This audit shall address compliance with the laws and regulations governing class B & C road funds.

- I. The local authority may issue bonds against class B & C road fund revenues up to a 10-year period.
(Utah Code 72-2-108(6).

2. **PROCEDURES**

- A. B & C road funds shall be distributed bi-monthly (every two months) using the formula prescribed in Utah Code 72-2-108(2-5)
- B. Population figures utilized in allocating B & C funds shall be based on the most recent census figures as set forth in Utah Code 72-2-108(2).
- C. Mileage representing all roads eligible for Class B & C funding shall be sub-totaled by each eligible surface-type classification and provided to UDOT by all counties and municipalities. This mileage shall determine funding credit that is the mileage basis for the portion of Class B & C funds each local authority will receive. County roads or municipal streets that do not meet requirements for eligibility should not be included in this mileage. The governing body of each local authority shall appoint an appropriate individual to certify that the mileage conforms to all rules, regulations and law regarding the use of Class B & C road funds. The certified mileage shall be submitted to the supervisor of the Road Inventory Section in the Planning Statistics Division of the Systems Planning and Programming Group in UDOT along with a hard copy map that will document location and surface type for each road claimed as Class B or C included in the mileage submittal document. If ineligible mileage (state highways, private roads, etc.) is included with submittal data, it shall be differentiated from the eligible mileage in the documentation. Spatial (GIS) data supporting the eligible mileage should be included when available (see Section V-3-A-5). Local authorities are encouraged to review their mileage and revise documentation in this manner on a regular interval ranging from every other year to as often as once per year. At minimum, local authorities that have not revised documentation with UDOT for more than one year shall notify UDOT when any significant changes have occurred to Class B & C road systems under their jurisdiction. Mileage figures and supporting documentation will remain in effect as the basis for Class B & C funding until subsequent revision by either the local authority or UDOT.
- D. The UDOT Road Inventory Section shall have the authority to make final determinations as to eligibility of specific roads and streets. UDOT shall execute field reviews, when necessary, to resolve any dispute that brings mileage eligibility into question, and shall conduct other random field surveys to promote adherence to regulations. UDOT will inform local authorities in writing of any mileage which is found to be out of compliance with regulations and advise them of corrective action needed. After receipt of such notification, the local authority will have at least 30 days to apply corrective action before the surface type of any Class B or Class C mileage is reclassified or any ineligible mileage is removed from the allocation by UDOT.

Section IV

USES OF CLASS "B & C" FUNDS

1. Permissible Uses

Including but not limited to the following:

- A. All construction and maintenance on eligible Class B & C roads
(Utah Code 72-3-103 to 72-3-104)
- B. Enhancement of traffic and pedestrian safety including but not limited to: sidewalks, curb and gutter (on all eligible B & C roads and state highways), safety features, traffic signals, traffic signs, street lighting and construction of bicycle facilities in the highway right-of-way.
(Utah Code 72-8-101 to 72-8-105)
- C. Investments for interest purposes (interest to be kept in fund)
- D. Equipment purchases or equipment leases and rentals
- E. Engineering and Administration
- F. Future reimbursement of other funds for large construction projects
- G. Rights of Way acquisition, fencing and cattle guards
- H. Matching Federal Funds.
(Utah Code 72-2-110)
- I. Equipment purchased with B&C funds may be leased from the road department to another department or agency using schedule of Equipment Rates posted on the FEMA website at http://www.fema.gov/government/grant/pa/eqrates_2005.shtm.
- J. Construction of road maintenance buildings, storage sheds, and yards. Multiple use facilities may be constructed by mixing funds on a proportional basis.
- K. Construction and maintenance of alleys (see definition of alleys in Section II-1)

2. Non-Permissible Uses

Non-Permissible uses include but are not limited to the following:

- A. Non-road uses
- B. Police Costs
- C. To pay for rental on equipment that was previously purchased with B & C road funds

Section V

RESPONSIBILITIES

1. THE UTAH DEPARTMENT OF TRANSPORTATION

A. General

1. In cooperation with county and municipal officials, The Utah Department of Transportation promulgates rules and procedures covering the Class B & C road program. Under authority granted by the Legislature, UDOT has responsibility to:
 - (a) Apportion Class B funds to counties and C funds to municipalities in accordance with the formula provided by law.
(Utah Code 72-2-107 & 72-2-108)
 - (b) Make and mutually adopt with counties and municipalities rules and procedures for expenditures of these funds and cooperate with local officials to put into effect the provisions of the law (the "Joint Highway Committee" represents all counties and municipalities).
(Utah Code 72-2-109)

B. Assignments

For the purpose of handling the affairs of the Class B & C road fund, certain offices, groups, divisions, sections and units of the UDOT have been assigned particular duties as follows:

1. Office of Comptroller

The Office of Comptroller within UDOT will prepare the Class B & C allocation list using the formula prescribed in Utah Code 72-2-108. The mileage by surface-type figures used in the distribution formula will come from the Road Inventory Section (as identified in Part 2). Population figures will come from the Governor's Office of Planning and Budget. The UDOT Comptroller's Office will calculate the portion of B & C funds each county and municipality receives per allocation, and that amount will be electronically transferred into individual local authority accounts in the Public Treasure Investment Fund, maintained by the Office of State Treasurer. The money in each local authority account will earn interest until it is withdrawn. This office makes proper record of all authorized distributions.

2. Systems Planning and Programming Group

- (a) The UDOT Road Inventory Section in the Planning Statistics Division will receive all documentation required for the purpose of updating eligible Class B and C mileage from counties and municipalities as outlined in Section III-2-C. The certified mileage figures included with the documentation will be used to calculate the Class B or Class C allocation for each local authority. The revised mileage shall be reflected in the allocation within 45 days of submittal.
- (b) The Road Inventory Section shall have the responsibility and authority to make final determinations regarding Class B and C eligibility and/or surface type classification of each road. If any ineligible mileage is found in submittal data received (i.e. inclusion of roads under UDOT jurisdiction) it will be removed from the appropriate surface-type category and UDOT will confirm the correction with the local authority before using the revised mileage in the allocation.
- (c) The UDOT shall conduct field reviews as necessary to resolve any dispute that brings mileage eligibility into question, and shall carry out other random field surveys to promote adherence to regulations. UDOT will make adjustments to the allocation based on findings of compliance during field surveys according to procedure described in Section III.2.D.
- (d) The UDOT will keep on file all documentation that is the basis of current funding for eligible Class B & C road mileage in all counties and municipalities.
- (e) The UDOT will incorporate spatial data received from counties and municipalities into a database that is designed to become the Class B and C mileage component in the development of the UDOT GIS transportation database.
- (f) The Local Government Programs Engineer in the Programming Division of the Systems Planning and Programming Group is responsible for the administration of the B & C program and is available to assist all counties and municipalities.
- (g) The UDOT makes no guarantee of the availability of future fund allocations and assumes no financial responsibility in that regard.

2. LOCAL AUTHORITY

A. General

1. The local authority shall become acquainted with and follow all rules, procedures and state law regarding the use of Class B & C road funds.
2. The county governing body shall identify all Class B roads under its jurisdiction and control. (Utah Code 72-3-103)
3. The municipal governing body shall identify all Class C streets under its jurisdiction and control. (Utah Code 72-3-104)
4. The local authority shall document and submit the eligible Class B or Class C mileage to the UDOT that is to be used for funding credit as outlined in Section III-2-C. For counties, this mileage can include road segments maintained in adjoining counties when requirements are met as outlined in Section VI-8. The local authority shall appoint an appropriate representative to certify that the mileage reported for funding credit conforms to all rules, regulations and law regarding the use of B & C road funds.
5. Upon request, the local authority shall provide UDOT with any available spatial data that may be used to document specific location and attribute information for eligible Class B & C roads and streets in the UDOT GIS transportation database. This data may include but is not limited to:
 - (a) Spatial data files showing specific location as a vector line feature with surface-type attribution for eligible road centerlines. If the file also includes ineligible roads such as state highways or private roads, eligible roads should be identified in the attribute data.
 - (b) Spatial data files showing location of updated municipal boundaries. Boundary changes must have been recorded with the State Tax Commission in order to be used as a basis to update Class B and C mileage.

The preferred format for spatial data is ESRI compatible, such as a personal geodatabase or shapefiles. At minimum, shapefiles consist of a main file (.shp), an index file (.shx) and a dBASE table (.dbf). If the projection file (.prj) is not available, it is important to include information as to how the data has been projected.

6. The local authority will select and complete projects using B & C road funds.
7. B & C road funds shall be deposited and accounted for in accordance with the State of Utah Uniform Accounting Manual.

B. Assignments

The local authority shall make definite assignments for reporting and using B & C road funds.

C. Audits

The local authority shall provide for the financial and compliance audits of the class B & C Road funds as required by the Utah Code Title 51 -Chapter 2a.

Section VI

FUNDING ELIGIBILITY REQUIREMENTS FOR COUNTY (CLASS B) ROADS AND MUNICIPAL (CLASS C) STREETS

1. Jurisdiction and Control

Roads and streets that are eligible for Class B and C funding must be under the jurisdiction and control of a county or municipality. County roads and municipal streets that are located on property under the control of a federal agency are considered to be eligible when constructed or maintained under agreement with the appropriate federal agency as required in Utah Code 72-3-103 (Class B) and 72-3-104 (Class C) or are maintained under the provisions of Utah Code 72-5-302.

2. Maintenance

Eligible roads and streets shall be maintained to a minimum standard or higher for purposes of public travel by conventional two-wheel drive passenger vehicles under normal conditions. The minimum standard shall include keeping the traveled way free from such obstructions as excessive high centers, overgrowth of vegetation, and washouts. Roads and streets that are classified as a surface-type of "Other" in Section II-11 shall be graded as necessary to meet this requirement.

3. Gates

Unlocked gates are permitted on eligible roads only if approved by the governing body for a county road or a municipal street. Any road or street or portion thereof that is allowed to be restricted to the public by a locked gate shall be ineligible. (Utah Code 72-7-106)

4. Restrictive Signing

Any signing that restricts public use of a road or street shall cause the restricted portion to be ineligible. Examples of restrictive signing shall include but not be limited to:

- A. Any sign that implies that the road is private or that it may be used only by authorized personnel.
- B. Any sign posted on an unlocked gate across a public road, or posted on a gatepost on either side of the gate, which reads "**NO TRESPASSING**", "**PRIVATE PROPERTY**", "**KEEP OUT**", or uses any language or symbol that insinuates that public travel beyond that point is prohibited. It is permissible, however, for these signs to be posted on fences or posts that run parallel to a public road.

5. Public or Municipal Park and Cemetery Streets

Roads and streets leading to the entrance of a public park or cemetery are eligible. However, those roads inside of the park or cemetery are ineligible unless they serve as a through street that carries traffic to other destinations.

6. Addition of New Mileage

New roads and streets shall be accepted for maintenance by the local authority and open to traffic before they can be included as eligible Class B or C mileage.

7. Temporary Closure

Eligible roads and streets must remain open to public travel with exceptions made for construction, temporarily unsafe conditions, seasonal closure or curfew restrictions.

8. Funding Credit

Funding credit is the mileage basis for the amount of funds each local authority will receive for the eligible county roads or municipal streets they maintain.

A. Subject to the following rules, counties can claim funding credit for eligible roads that they maintain in an adjoining county:

1. Each county has the authority to determine which roads within its boundary should be designated as Class B roads; accordingly a county does not have the authority to designate a road outside of its boundary as Class B.
2. By default, counties will receive funding credit for all eligible Class B road mileage located within their respective boundaries.
3. A county may receive Class B funding credit for eligible Class B road or road segments it maintains in an adjoining county subject to approval by the adjoining county.
4. A county will have jurisdiction and control of all Class B roads within its respective boundaries, regardless of any funding credit being received for roads by adjoining counties that maintain them.

B. Subject to the approval of a municipality, a county may also claim funding credit for eligible streets they maintain inside of the municipality that have been designated as Class C streets by the municipality. A county does not need municipal approval to claim funding credit for eligible Class B roads located inside of a municipality.

(Utah Code 17-50-305)

C. The local authorities shall take all measures necessary to ensure that all eligible mileage is reported and that the mileage claimed for funding credit does not overlap with a bordering entity that is claiming the same mileage